

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

JUANITA TANSIL,

Plaintiff,

v.

HONDA MOTOR COMPANY, LTD.,
d/b/a AMERICAN HONDA MOTOR
COMPANY, INC., d/b/a HONDA OF
AMERICA MFG., INC., AND
DRK INVESTMENT CO. RAYMOND J.
MUNGENAST d/b/a MUNGENAST
ST. LOUIS ACCURA,

Defendants.

Cause No: 4:16-cv-01220 CEJ

**DEFENDANT DRK INVESTMENT CO.'S MEMORANDUM IN SUPPORT OF
ITS MOTION TO DISMISS
BASED ON THE LACK OF SUBJECT MATTER JURISDICTION**


As shown in the Motion to Dismiss, Plaintiff has alleged that she is a resident of Missouri and that Defendant DRK Investment Co. has its principal place of business in Missouri. Defendant DRK Investment Co. is also submitting an affidavit to show that it is a Missouri corporation with its principal place of business in Missouri. Plaintiff's own pleadings show that this Court lacks subject matter jurisdiction of this cause of action.

A Plaintiff has the burden to establish "the factual bases for the subject matter jurisdiction invoked. *Wilkerson v. Mo. Dept. of Mental Health*, 279 F.Supp.2d 1079, 1080 (E.D.Mo. 2003). "If the Court determines at any time that it lacks subject-matter jurisdiction, the court must dismiss the action." FED. R. CIV. P. 12(h)(3). Diversity jurisdiction requires that the lawsuit at issue be between citizens of different states. It is well settled "that federal diversity jurisdiction requires complete diversity." *Id.*

“Complete diversity of citizenship exists where no defendant holds citizenship in the same state where any plaintiff holds citizenship.” *OnePoint Solutions, LLC v. Borchert*, 486 F.3d 342, 346 (8th Cir. 2007).

Here, Plaintiff alleges facts that prove diversity jurisdiction does NOT exist. Defendant has also submitted an affidavit to further prove jurisdiction does NOT exist. Plaintiff’s complaint must be dismissed. *See, Favaloro v. Webster Groves/Shrewsbury Area Chamber of Commerce*, 2012 WL 1829883 (E.D.Mo. 2012); *TKE Enterprises, Inc. v. Crack Team, U.S.A., Inc.* 2013 WL 1883072 (E.D.Mo. 2013).

WHEREFORE, Defendant DRK Investment Co. respectfully requests this Court dismiss Plaintiff’s Second Amended Complaint and grant all other relief that is just and proper.



Paul E. Petruska #46922
3660 South Geyer Road, Suite 340
St. Louis, MO 63127
E-mail: paul.petruska@zurichna.com
PH: (314) 436-2775
Fax: (314) 835-9422
Attorney for Defendants

CERTIFICATE OF SERVICE

A copy of the foregoing was electronically filed with the Court this 29th day of September, 2016, to:

Juanita Tansil
1815 Cambridge Lane
St. Louis, MO 63147